General Assembly

File No. 438

February Session, 2012

Substitute House Bill No. 5140

> *House of Representatives, April 16, 2012*
>
> The Committee on Banks reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING PAYMENT OF INSURANCE SETTLEMENT PROCEEDS TO AN INSURED BY A MORTGAGE HOLDER.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-498 of the 2012 supplement to the general
2 statutes is amended by adding subsection (i) as follows (*Effective*
3 *October 1, 2012*):

4 (NEW) (i) (1) No mortgage holder, as defined in section 49-10b, shall
5 unreasonably withhold from the borrower of a residential mortgage
6 loan a payment of insurance settlement proceeds or an endorsement of
7 an insurance settlement proceeds payment instrument, that is issued
8 by an insurance company insuring the residential real property that
9 serves as collateral for such residential mortgage loan, when:

10 (A) Such payment is made by the insurance company for a covered
11 loss and the payees jointly named on the payment instrument are the
12 borrower and the mortgage holder;

13   (B) The borrower has provided the mortgage holder with such
14 information, documents and agreements as may be reasonably
15 requested to allow the mortgage holder to evaluate and manage the
16 risks associated with the covered loss, including information regarding
17 the property, the loss, the insurance claim and the cost, value and
18 feasibility of any proposed repairs;

19   (C) The borrower has satisfied any reasonable conditions the
20 mortgage holder may establish to protect the mortgage holder's
21 interest in such residential real property and the mortgage holder's
22 ability to recover the mortgage debt, including completion of any
23 repairs reasonably required; and

24   (D) The borrower has provided the mortgage holder with a
25 reasonable opportunity to verify that (i) the conditions established
26 pursuant to subparagraph (C) of this subdivision have been satisfied,
27 including inspection of such residential real property and of any
28 required repairs, and (ii) sufficient collateral value for such residential
29 real property exists to support the release of the insurance settlement
30 proceeds.

31   (2) No mortgage holder shall be deemed to unreasonably withhold a
32 payment or endorsement if the mortgage holder:

33   (A) Provides such payment or endorsement to the borrower not
34 later than ten business days after such borrower satisfies the applicable
35 conditions and requirements of subparagraphs (B) to (D), inclusive, of
36 subdivision (1) of this subsection;

37   (B) (i) Does not specify or establish any conditions or requirements
38 under subparagraphs (B) to (D), inclusive, of subdivision (1) of this
39 subsection within ten business days after the mortgage holder receives
40 such insurance settlement proceeds, and (ii) the mortgage holder
41 provides such payment or endorsement to the borrower not later than
42 the expiration of such ten-day period;

43   (C) Withholds payment or endorsement because, in the reasonable

44   judgment of the mortgage holder, such payment or endorsement will
45   impair or jeopardize the mortgage holder's ability to recover the
46   mortgage debt; or

47   (D) Withholds payment or endorsement because the borrower is in
48   default of the residential mortgage loan.

49   (3) Nothing in this subsection shall be construed to affect any
50   contractual rights of a mortgage holder or to prohibit or prevent a
51   mortgage holder from disbursing partial payments to a borrower of
52   any such insurance settlement proceeds as repairs are completed and
53   sufficient collateral value is restored to such residential real property.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2012*	36a-498

BA   *Joint Favorable Subst.*

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

There is no fiscal impact to the state as the bill's requirements pertain to transactions between mortgage companies and private individuals.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sHB 5140

AN ACT CONCERNING PAYMENT OF INSURANCE SETTLEMENT PROCEEDS TO AN INSURED BY A MORTGAGE HOLDER.

SUMMARY:

This bill, under certain circumstances, bars a residential mortgage holder or servicer from unreasonably withholding payment or endorsement of a payment to a borrower under an insurance policy claims payment. The bill does not (1) affect any contractual rights of a mortgage owner or servicer or (2) prohibit or prevent a mortgage owner or servicer from disbursing partial payments to a borrower of the insurance settlement proceeds as repairs are completed and sufficient collateral value is restored to the residential property.

EFFECTIVE DATE: October 1, 2012

CIRCUMSTANCES WHEN THE BILL APPLIES

The bill's prohibition applies when the:

1. insurance company is making the payment for a covered claim and the joint payees named on the payment form are the borrower and the mortgage owner or servicer;

2. borrower has provided the mortgage owner or servicer with the information, documents, and agreements it reasonably requests to allow it to evaluate and manage the risks associated with the covered loss, including information about the property, loss, insurance claim and cost, and value and feasibility of any proposed repairs;

3. borrower has satisfied any reasonable conditions the mortgage owner or servicer may establish to protect its interest in the

property and its ability to recover the mortgage debt, including completion of any reasonably required repairs; and

4. borrower has provided the mortgage owner or servicer with a reasonable opportunity to verify that (a) the conditions described above have been satisfied, including inspection of the property and of any required repairs and (b) the property has sufficient collateral value to support the release of the insurance settlement proceeds.

Under the bill, a mortgage owner or servicer has not unreasonably withheld a payment or endorsement if it:

1. provides the payment or endorsement to the borrower within 10 business days after he or she satisfies the bill's requirements;

2. does not specify or establish any conditions or requirements under these provisions within 10 business days after it receives the insurance settlement proceeds and provides the payment or endorsement to the borrower within the 10-day period;

3. withholds payment or endorsement because, in its reasonable judgment, making the payment or endorsement will impair or jeopardize its ability to recover the mortgage debt; or

4. withholds payment or endorsement because the borrower is in default of the residential mortgage loan.

BACKGROUND

Legislative History

The House referred this bill (File 52) to the Banks Committee, which reported a substitute that:

1. limits the bill to owners and servicers of residential mortgages, rather than mortgage lenders, correspondent lender, broker, and loan originators with regard to all mortgages;

2. expands the conditions that must exist in order for the

prohibition to apply; and

3. adds the provisions on contractual rights and partial payments.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable
 Yea   14   Nay   4   (03/08/2012)

Banks Committee

Joint Favorable Substitute
 Yea   14   Nay   0   (04/03/2012)